
STAFF REVIEW

Variance Case #: V2012-22

Legistar #: 20122541

City Council Hearing: Wednesday, June 13, 2012 – 7:00 p.m.

Applicant: Matthew Van Dyke
Core States Group
4191 Pleasant Hill Road
Suite 400
Duluth, GA 30352

Property Owner: Raymond O. Boyd
5600 Roswell Road
Suite M-150
Sandy Springs, GA 30352

Address: 9 Cobb Parkway North & 1017 Roswell St

Land Lot: 1211 & 121 **District:** 16 **Parcel:** 0140 & 0020

Council Ward: 5 **Existing Zoning:** CRC (Community Retail Commercial)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to increase the allowable height for a freestanding sign within Tier A from 8' to 15.' [Section 714.04 TABLE H.]
2. Variance to increase the allowable sign face for a freestanding sign within Tier A from 60 s.f. to 100 s.f. [Section 714.04 TABLE H.]
3. Variance to allow a general advertising sign and two off-premise signs outside of the area within 100 feet of the right of way of Interstate 75. [Section 714.04 (F)]
4. Variance to waive the requirement that a general advertising sign and off-premise sign be regulated as a principal use. [Section 714.04 (F)(1)]
5. Variance to waive the requirement that no general advertising sign or off-premise sign shall be located within 1,000 foot radius of another general advertising or off-premise sign. [Section 714.04 (F)(5)]
6. Variance to allow a general advertising sign and off-premise signs be located on a lot which a building and signage is located. [Section 714.04 (F)(9)]
7. Variance to waive the optional site design elements. [Section 712.09(F)(2)(a)]
8. Variance to eliminate the maximum 16' setback. [Section 712.09(F)(2)(b)(i)]
9. Variance to eliminate the requirement that drive-through service window, bay, or lane and all queuing lanes be located as far as practicable from any right-of-way or pedestrian route. [Section 712.09 (F)(2)(b)(vii)(2)]

10. Variance to allow the proposed future streetscape being installed by the City to satisfy the requirement for landscape screening for drive-through facilities within 50' of a pedestrian route. [Section 712.09 (F)(2)(b)(vii)(3)]
11. Variance to eliminate the requirement that any building abutting a public right-of-way be oriented to the street. [Section 712.09(F)(2)(b)(ix)]
12. Variance to waive the 6' brick sidewalk along Cobb Parkway North and Key Drive. [Section 712.09(F)(4)(a)(i)]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



9 Cobb Parkway North



General Advertising Sign on 9 Cobb Parkway North



Roswell Street frontage (looking east)



Roswell Street frontage (looking west)



Cobb Parkway North frontage (looking north)



Key Drive frontage (looking north)

Staff Analysis:

Matthew Van Dyke of Core States Group is requesting multiple variances for the property at the corner of Cobb Parkway and Roswell Street for the site of a future Fifth Third Bank and possible fast food restaurant. The subject property is made up of two parcels zoned CRC (Community Retail Commercial) and located within the Commercial Corridor Design Overlay District (Tier A). The proposal shows the Fifth Third Bank on the parcel at the corner (9 Cobb Parkway North) of Roswell Street and Cobb Parkway. A potential fast food restaurant location will be located on the parcel at the corner (1017 Roswell Street) of Roswell Street and Key Drive. In order to proceed with the proposed project, the applicant is requesting multiple variances from the sign ordinance and the Commercial Corridor Design Overlay standards.

Sign Variances

The property at 9 Cobb Parkway North contains a general advertising (billboard) sign along its northern property line. The applicant wishes to retain the existing general advertising sign (billboard) despite Section 714.06 (C)(5), which states “*where there are existing nonconforming signs on a parcel in which there will be a renovation of the primary structure exceeding 50% of its replacement cost or there is redevelopment of a vacant lot, the entire sign (in each case) shall be required to come into compliance with the City of Marietta Sign Ordinance.*” (In addition, should the current building be completely removed, Section 718.03 includes the statement that “*a review shall be required for any proposed use of land before any building permit is issued or any improvement, grading or alteration of land or building commences to determine compliance with all provisions of the zoning ordinance.*”.)

Some regulations for general advertising signs (billboards) include the prohibition of new billboard structures anywhere other than along I-75, on the same parcel as another use, on a substandard lot (each parcel is required a minimum lot size of 20,000 sq.ft.), within the building setbacks, although certain provisions are made for the panel’s projection into the setbacks. As a result, the existing billboard would have to be removed from the property or variances would have to be granted in order for the project to proceed.

The following are similar cases that have been heard by City Council in the past:

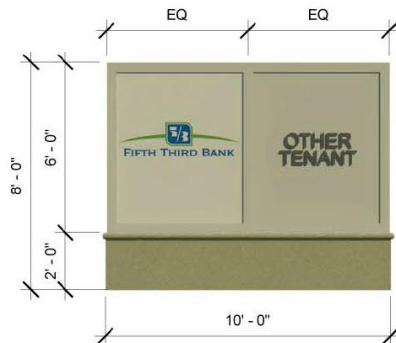
- V2006-03 – 155 Cobb Parkway South: This variance request would have allowed a billboard structure remain on the parcel after the site was redeveloped into the current Arby’s and Popeye’s restaurants and allow the Arby’s building be constructed within 15’ of the billboard. This variance was denied and the billboard was demolished.
- V2010-08 – 1440 Field Park Circle: This variance request involved allowing an existing billboard structure to remain on a parcel with a new classroom facility used by the Atlanta Adventist Academy’s Marietta campus. The billboard structure was initially indicated as “to be removed” on the site plans for the parking lot and, on the site plans for the construction of the facility, the billboard was not shown. As a result, variances were applied for to allow both the billboard and the school building remain. The request was denied.
- V2012-12 – 2195 Cobb Parkway South: This is a pending variance request for a billboard to remain on a property being redeveloped from a Checkers fast-food restaurant into a National Tire & Battery store.

Based on the provided lease agreement between the current property owner and CBS Outdoor Inc., the current ten year lease is set to expire on May 31, 2016.

The applicant is also requesting variances for the two monument signs. One is proposed for the corner of Roswell Street and Key Drive; the other is along the Cobb Parkway North frontage on the Fifth Third Bank’s parcel. Although the two businesses will be located on two separate parcels of land, the applicant would like the ability for each tenant to be able to advertise on the

other's freestanding sign. Off-premise signs are regulated similarly to general advertising (billboard) signs and are defined as *"any sign located...any place other than within the same platted parcel of land on which the specific business or activity being identified on such sign is itself located or conducted."* Variances will be required to allow the requested shared monument signs.

City Council approved a similar request in February 2010 for a new McDonald's at the corner of Delk Road and Powers Ferry Place (V2010-02). The approved variances allowed the McDonald's and Howard Johnson hotel to share freestanding signage on both the Powers Ferry Place frontage and the Delk Road frontage. The variances also granted additional height (from 15' to 25') and area allowances (90 s.f. to 120 s.f. and 30 s.f. to 50 s.f.) for the signs. This situation differs in that Delk Road is not located within an overlay district and the Howard Johnson is landlocked and relies on the McDonald's parcel for access.



KEY DR. & ROSWELL SIGNAGE



COBB PARKWAY SIGNAGE

The height and area of the proposed monument sign along Cobb Parkway North does not conform to the standards specified in the sign ordinance. Monument signs on arterial roads are typically limited to 15' in height and 90 s.f. of sign face. However, the height and sign face area of monument signs in Tier A were specifically reduced (to 8' and 60 s.f. respectively) in order to create a more pedestrian-scaled streetscape environment along Roswell Street. The sign design for the monument at 9 Cobb Parkway North is shown to be 15' in height with 100 s.f. of sign face (50 s.f. for each tenant). Although the sign is not oriented towards or located on the primary corridor focused on by the overlay, the sign would still not comply with the size limits for sign faces on arterial roads.

The height and area of the proposed monument sign along Roswell Street does conform to the standards specified in the sign ordinance (8' and 60 s.f. respectively), but a variance would be necessary to allow an off- premise sign to accommodate the two businesses.

Commercial Corridor Design Overlay Tier A

Site Design-

In order to develop the site as shown on the submitted site plan, multiple variances from the optional and mandatory overlay site design elements would be necessary. The intent of the overlay district, and most specifically Tier A, is to bring the buildings closer to the street. This creates a more comfortable pedestrian environment and also shields unsightly parking lots and driveways from the primary corridor. In order to site the bank and potential fast food restaurant buildings in the center of the parcel, variances to eliminate the maximum 16' foot would be required. Locating the buildings in the middle of the parcel also prevents them from being oriented towards the street, which entails having the primary entrance open directly onto the street right-of-way. This will also require a variance.

Tier A also contains mandatory design requirements for drive-thru businesses, such as screening a drive-thru located within 50' of a pedestrian route from public view and locating them as far as possible from the road. The bank site does not appear to have a problem meeting the requirement; however, the proposed restaurant site configuration will require variances, as the drive-through is not located as far as practicable from any right of way or pedestrian route. Further, since the drive-through runs (parallel) within 50' of Roswell Street, the ordinance requires landscaping for screening. The applicant has requested variances that would allow the landscaping proposed as part of the City's Roswell Streetscape project to satisfy this requirement.

Each parcel or project must attain at least half the eligible points available under optional site design criteria. These elements include options such as adding bike racks/parking, providing an angled entrance to the street (corner lots), minimizing the number of curb cuts, saving specimen trees (if applicable), providing pedestrian walkways to the sidewalk, and sharing parking and driveways with adjacent parcels. Based on the provided plan, it appears as though both the bank and fast food restaurant designs could potentially meet this requirement. However, the applicant has specifically requested variances from the optional site design elements for both parcels.

Building Design-

The overlay also contains optional and mandatory building design elements. The elevations submitted for the bank appear to fully comply with both the optional and mandatory requirements. Because the proposed tenant for the restaurant parcel is not yet finalized, no elevations have been provided. The future restaurant tenant will be expected to either conform to the regulations or apply for building design variances at the time of development.

Streetscape Design –

One of the requirements for streetscape design for Tier A is the provision of 6' brick sidewalks. The regulations do not specify whether this requirement is only for property frontages along



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Brian Binzer, Director

Roswell Street. The applicant is requesting variances to not provide any sidewalk along the Cobb Parkway North and Key Drive frontages for the development.

It should be noted that, per Section 712.09(F)(4)(a)(iii) regarding streetscape design in Tier A, *“acceleration and deceleration lanes will not be required for properties on Roswell Street.”*